

Christopher Gartman
HUGHES HUBBARD & REED LLP
One Battery Park Plaza
New York, New York 10004
Telephone: (212) 837-6000
Facsimile: (212) 422-4726

Counsel for Matson Navigation Company, Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

SEARS HOLDINGS CORPORATION, *et al.*,¹

Reorganized Debtors.

Chapter 11

Case No. 18-23538 (RDD)

(Jointly Administered)

**LIMITED OBJECTION OF MATSON NAVIGATION COMPANY, INC.
TO NOTICE OF ASSUMPTION AND ASSIGNMENT
OF ADDITIONAL EXECUTORY CONTRACTS**

¹. The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: Sears Holdings Corporation (0798); Kmart Holding Corporation (3116); Kmart Operations LLC (6546); Sears Operations LLC (4331); Sears, Roebuck and Co. (0680); ServiceLive Inc. (6774); A&E Factory Service, LLC (6695); A&E Home Delivery, LLC (0205); A&E Lawn & Garden, LLC (5028); A&E Signature Service, LLC (0204); FBA Holdings Inc. (6537); Innovol Solutions, Inc. (7180); Kmart Corporation (9500); MaxServ, Inc. (7626); Private Brands, Ltd. (4022); Sears Development Co. (6028); Sears Holdings Management Corporation (2148); Sears Home & Business Franchises, Inc. (6742); Sears Home Improvement Products, Inc. (8591); Sears Insurance Services, L.L.C. (7182); Sears Procurement Services, Inc. (2859); Sears Protection Company (1250); Sears Protection Company (PR) Inc. (4861); Sears Roebuck Acceptance Corp. (0535); Sears, Roebuck de Puerto Rico, Inc. (3626); SYW Relay LLC (1870); Wally Labs LLC (None); Big Beaver of Florida Development, LLC (None); California Builder Appliances, Inc. (6327); Florida Builder Appliances, Inc. (9133); KBL Holding Inc. (1295); KLC, Inc. (0839); Kmart of Michigan, Inc. (1696); Kmart of Washington LLC (8898); Kmart Stores of Illinois LLC (8897); Kmart Stores of Texas LLC (8915); MyGofer LLC (5531); Sears Brands Business Unit Corporation (4658); Sears Holdings Publishing Company, LLC. (5554); Sears Protection Company (Florida), L.L.C. (4239); SHC Desert Springs, LLC (None); SOE, Inc. (9616); StarWest, LLC (5379); STI Merchandising, Inc. (0188); Troy Coolidge No. 13, LLC (None); BlueLight.com, Inc. (7034); Sears Brands, L.L.C. (4664); Sears Buying Services, Inc. (6533); Kmart.com LLC (9022); and Sears Brands Management Corporation (5365). The location of the Debtors' corporate headquarters is 3333 Beverly Road, Hoffman Estates, Illinois 60179.

Matson Navigation Company, Inc. (“Matson”), by its undersigned attorneys, hereby submits this limited objection (this “Limited Objection”) to the Debtors’ *Notice of Assumption and Assignment of Additional Executory Contracts* dated May 2, 2019 (Docket No. 3539) (the “Assumption Notice”) relating to (i) that certain Service Contract No. C3077 dated as of May 1, 2013 (together with any amendments thereto, the “Matson Contract”).

LIMITED OBJECTION

1. On January 18, 2019, the Debtors filed the *Notice of Cure Costs and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with the Global Sale Transaction* (Docket No. 1731) (the “Cure Notice”), setting forth certain executory contracts and unexpired leases that may be subject to potential assumption and assignment in connection with the Debtors’ proposed Global Asset Sale Transaction (as defined in the Cure Notice).

2. On January 25, 2019, Matson timely filed an objection to the Cure Notice (Docket No. 1913) (the “Cure Objection”) that objected to the cure amount proposed by the Debtors with respect to the Matson Contract.

3. Thereafter, Matson entered into an amendment to the Matson Contract with Transform Innovel Solutions LLC (the “Assumption Agreement”) that, among other things, resolved the Cure Objection and provided for the Matson Contract to be assumed, effective as of February 11, 2019.

4. While the Assumption Notice properly reflects that the cure amount has been resolved consensually, Matson submits this Limited Objection because the Assumption Notice provides for an Assumption Effective Date that is inconsistent with the February 11, 2019 effective date for assumption of the Matson Contract that was established by the Assumption

Agreement. *See* Assumption Notice ¶ 19 (“If a timely Cure Objection is not filed (or any such objection has been withdrawn or resolved) . . . the Assumption Effective Date for any such Additional Contract shall be the date that this notice is filed with the Court [May 2, 2019].”).

5. Because the Assumption Notice is inconsistent with the Assumption Agreement with respect to the February 11, 2019 Assumption Effective Date established by the Assumption Agreement, and because that term was material to Matson’s willingness to enter into the Assumption Agreement, the Assumption Notice should be modified to reflect the proper February 11, 2019 Assumption Effective Date established for the Matson Contract.

RESERVATION OF RIGHTS

Matson reserves the right to supplement this Limited Objection and to submit further objections with respect to the assumption, assumption and assignment, or rejection of the Matson Contract.

CONCLUSION

WHEREFORE, Matson respectfully requests that (i) the Assumption Effective Date with respect to the Matson Contract be modified to February 11, 2019; and (ii) the Court grant Matson such other and further relief as it may deem just and proper.

Dated: New York, New York
May 10, 2019

HUGHES HUBBARD & REED LLP

/s/ Christopher Gartman

Christopher Gartman
One Battery Park Plaza
New York, New York 10004
Telephone: (212) 837-6000
Facsimile: (212) 422-4726
chris.gartman@hugheshubbard.com

Counsel for Matson Navigation Company, Inc.